

MEMORANDUM

October 20, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: BRIAN T. CHU
Senior Deputy County Counsel
General Litigation Division

RE: **Claim of Devlin Osburn**

DATE OF
INCIDENT: October 20, 2004

AUTHORITY
REQUESTED: \$23,888.59

COUNTY
DEPARTMENT: Department of Public Works/Flood Control

CLAIMS BOARD ACTION:



Approve



Disapprove



Recommend to Board of
Supervisors for Approval



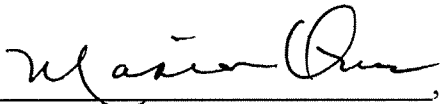
, Chief Administrative Office

ROCKY A. ARMFIELD



, County Counsel

JOHN F. KRATTLI



, Auditor-Controller

MARIA M. OMS

on November 6, 2006

SUMMARY

This is a recommendation to settle for \$23,888.59 the claim presented by Devlin Osburn seeking property damages to his home caused by water intrusion when a County maintained storm drain burst on October 20, 2004.

LEGAL PRINCIPLE

The County may be held liable for inverse condemnation based on a claim of property damages caused by escaping drainage waters.

SUMMARY OF FACTS

At approximately 1:00 a.m. on October 20, 2004, water exploded through a storm drain owned and maintained by the County near the intersection of Del Mar Boulevard and Allen Avenue in the City of Pasadena. A three-foot-high wall of water was created and traveled into adjacent private properties, including property owned by Mr. Osburn. The water caused damage to Mr. Osburn's house, personal property and outdoor landscaping.

DAMAGES

Mr. Osburn claims total damages categorized as follows:

Property Clean-up Damages	\$ 3,219.69
House/Exterior	\$13,823.93
Personal Property	<u>\$16,386.00</u>
TOTAL	\$33,429.62

In the event that this matter were to be litigated, and if Mr. Osburn were to prevail on the inverse condemnation claim, he also will be entitled to attorneys' fees and experts' costs.

STATUS OF CASE

A claim was timely filed under the California Tort Claims Act. No litigation has been filed to date.

EVALUATION

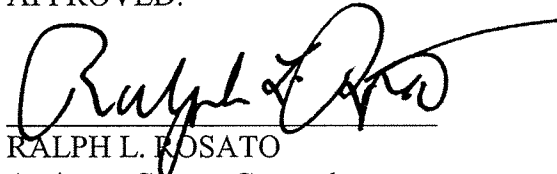
Mr. Osburn's claim is one of 12 claims presented as a result of this incident. The storm drain is, and was at the time of the incident, owned and maintained by the County. Due to the excessive water pressure placed against the storm drain lid, a high volume of water escaped and invaded the adjacent private properties. Mr. Osburn may contend that the storm drain was not adequately maintained, which allowed the water to escape from the storm drain and create a nuisance. Mr. Osburn's total submitted damages have been adjusted for depreciation. If Mr. Osburn files suit and prevails based on inverse

condemnation, he will be entitled to recover attorneys' fees and experts' costs that will significantly exceed the proposed settlement amount.

RECOMMENDATION

We join our third party administrator, Carl Warren & Company, in recommending a total settlement of this matter in the amount of \$23,888.59. The Department of Public Works concurs in this settlement recommendation.

APPROVED:

A handwritten signature in black ink, appearing to read "Ralph L. Rosato", is written over a horizontal line.

RALPH L. ROSATO
Assistant County Counsel
General Litigation Division

BTC:ac